

## **EXHIBIT 70**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Civil Action No. 1:17-cv-02246

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CYNTHIA RUSSO, et al.,  
Plaintiffs,

-against-

WALGREEN CO.,  
Defendant.

- - - - -x

Virtual Zoom Deposition

May 4, 2023

9:00 a.m.

CONFIDENTIAL DEPOSITION of JOHN W.  
HANIFIN, in the above-entitled action, held at  
the above time and place, taken before Jeremy  
Richman, a Shorthand Reporter and Notary  
Public of the State of New York, pursuant to  
the Federal Rules of Civil Procedure, and  
stipulations between Counsel.

\* \* \*

1  
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18

19 PRESENT:  
MARC FRIEDMAN, Videographer  
20 THOMAS MUNK, Concierge  
21

22 \* \* \*  
23  
24  
25

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2 question.

3 MR. SHINGLER: Reporter, can  
4 you read back the question I asked  
5 previously?

6 (Requested portion of the  
7 record was read back.)

8 A. Correct.

9 Q. In other words, because the  
10 pharmacist already has the relevant  
11 information, the task of providing the  
12 information requires significantly less  
13 effort than the patient needing to  
14 affirmatively provide that information,  
15 correct?

16 MS. COLEMAN: Objection to  
17 form.

18 A. Correct.

19 Q. When it comes to a "obstacle"  
20 in the context of analyzing a loyalty  
21 program, every task or step facing a  
22 consumer is considered an obstacle,  
23 even where that task or step is not  
24 considered particularly meaningful to a  
25 consumer, correct?

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2 business.

3 Q. What was the general context  
4 of the dispute?

5 A. Dispute over payment for  
6 goods and services.

7 Q. Were you the claimant in that  
8 case, or were you on the receiving end  
9 of that claim?

10 A. I was the receiver of that  
11 complaint.

12 Q. Did that circumstance result  
13 in a lawsuit?

14 A. Yes.

15 Q. Do you remember the name of  
16 the lawsuit?

17 A. No.

18 Q. Were you named individually?

19 A. No.

20 Q. The company that you owned  
21 was named as a party; is that correct?

22 A. That's what I recall.

23 Q. What was the name of that  
24 company?

25 A. It was AMPAC Aircraft

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2 Q. Let's try that again. Have  
3 you discussed the content of your  
4 report with anyone?

5 MS. COLEMAN: Same objection.

6 A. I have discussed the report  
7 with Reed Smith, but with no one else.

8 Q. You attended the University  
9 of Virginia as an undergrad; is that  
10 correct?

11 A. That's correct.

12 Q. And the years you attended?

13 A. 1974 to 1978.

14 Q. You obtained a BS degree in  
15 finance; is that correct?

16 A. That's correct.

17 Q. You did not attend grad  
18 school; is that correct?

19 A. That's correct.

20 Q. You have a CLMP degree; is  
21 that right?

22 A. I do.

23 Q. That stands for certified  
24 loyalty marketing professional; is that  
25 correct?

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2 A. That's correct.

3 Q. An entity called The Loyalty  
4 Academy gave you that CLMP in  
5 March 2017; is that correct?

6 A. That's correct.

7 Q. Is The Loyalty Academy an  
8 accredited educational institution?

9 MS. COLEMAN: Objection to  
10 form.

11 A. It is not accredited. It's  
12 governed by a board of regents.

13 Q. Is it correct that The  
14 Loyalty Academy is a product of the  
15 Wise Marketer business?

16 A. It is part of the Wise  
17 Marketer Group.

18 Q. That wasn't my question,  
19 exactly. I appreciate your answer, but  
20 we'll try the question again.

21 The Loyalty Academy is a  
22 product of your Wise Marketer business;  
23 isn't that correct?

24 A. That's not how I would  
25 describe it. It's not a product, it's

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2 Q. As an undergraduate student,  
3 you didn't take any courses specific to  
4 pharmacy operations or the pharmacy  
5 industry, correct?

6 A. No, I did not.

7 Q. And you don't consider  
8 yourself or purport to be an expert in  
9 the pharmacy operations or the pharmacy  
10 industry, do you?

11 A. No, I do not.

12 Q. And your CLMP is not in the  
13 pharmacy operations or the pharmacy  
14 industry, is it?

15 A. No, it's not.

16 Q. You don't purport to be an  
17 economist, do you?

18 A. No, I do not.

19 Q. You don't purport to be an  
20 expert in econometrics either, do you?

21 A. No, I don't.

22 Q. Give me just a moment, I'm  
23 going to mark an exhibit.

24 A. Mm-hmm.

25 MR. SHINGLER: Selina, are we



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2 Q. And then separately, in  
3 January 2016 to present, you became CEO  
4 and managing editor of "The Wise  
5 Marketer;" is that correct?

6 A. That is correct.

7 Q. And that involved purchasing  
8 an ownership interest in "The Wise  
9 Marketer," correct?

10 A. That's correct.

11 Q. The statements on your  
12 LinkedIn page describing your work with  
13 "The Wise Marketer" are accurate  
14 statements, correct?

15 A. They are, correct.

16 Q. Now, you graduated college in  
17 -- actually, we've been on the record  
18 for about an hour. I'm wondering, you  
19 want to use the restroom or take a  
20 quick break?

21 A. We can take a short break.

22 MR. SHINGLER: Why don't we  
23 do that. Say 10 minutes?

24 THE WITNESS: Sure.

25 THE VIDEOGRAPHER: Stand by,

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2 A. It was in the end of 1996,  
3 beginning of 1997.

4 Q. That was the entity that you  
5 mentioned earlier involving a  
6 deposition; is that right?

7 A. That's correct.

8 Q. Do you remember who the  
9 plaintiff was in that case?

10 A. I don't, exactly. It was  
11 another supplier in the business.

12 Q. Do you have a general sense  
13 of who it was?

14 A. Yeah, yes.

15 Q. What's your general sense?

16 A. General sense, what do you  
17 want to know?

18 Q. I'm trying to identify the  
19 organization.

20 A. Oh, oh. I think at the time  
21 it was called Ikaros. They changed  
22 their name --

23 Q. How do you spell that?

24 A. It's like the Greek God,  
25 I-K-A-R-O-S.

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2 Q. I-K-A-R-O-S?

3 A. Yes.

4 Q. Oh, like Ikaros got too close  
5 to the sun.

6 A. They just spelled it  
7 differently.

8 Q. Okay.

9 A. Mm-hmm.

10 Q. And then when you left AMPAC,  
11 or closed AMPAC -- excuse me, strike  
12 that.

13 When you closed AMPAC, that's  
14 when you joined Visa as a product  
15 manager, correct?

16 A. That's correct. There was a  
17 period of time between when I joined  
18 AMPAC and joined Visa, probably  
19 six months where I was probably either  
20 doing some sales work for a couple of  
21 random people, friends, something like  
22 that, while I was looking for something  
23 more permanent.

24 Q. Is it accurate to say you've  
25 never been an employee of a pharmacy?

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2 A. Yes, it is.

3 Q. Is it accurate to say you've  
4 never been an employee of a pharmacy  
5 benefit manager?

6 A. Yes, it is.

7 Q. And is it accurate to say  
8 you've never been an employee of a  
9 third-party payor?

10 MS. COLEMAN: Objection to  
11 form.

12 A. Yes, it is.

13 Q. If you'll turn to -- I'll  
14 just go ahead and mark it as an  
15 exhibit. Give me one moment to do  
16 that.

17 A. Should I close this LinkedIn  
18 profile out?

19 Q. Yes. I marked it and  
20 admitted it for the record. So this is  
21 now 551, see if I get this right.

22 MR. SHINGLER: Just from a  
23 technological standpoint, if I've  
24 written 0551 in exhibit  
25 identification and I have, I can

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2           see it on the page, and I click,  
3           add stamp, and then I put,  
4           introduce exhibit, that should take  
5           care of it, correct?

6                   MR. MUNK:   Yes.

7           Q.       You have a copy of your  
8           report there as an exhibit. You can  
9           use your own copy. Everyone can see  
10          it's Exhibit 551; is that correct?

11                   (Exhibit 551, marked for  
12          identification, expert report of  
13          John W. Hanifin dated March 17,  
14          2023.)

15                   MS. COLEMAN:   Yes, it's up  
16          and marked correctly as 551, at  
17          least on my end.

18          Q.       Okay. If you'll turn to your  
19          list of publications in your report,  
20          Mr. Hanifin.

21          A.       Yes, sure. Okay.

22          Q.       Do you have that up?

23          A.       I do.

24          Q.       Does this exhibit list all of  
25          your publications in the last 10 years?

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2 A. Yes, it does.

3 Q. Which of these publications  
4 discuss the calculation of the U&C  
5 prices in the pharmacy industry?

6 MS. COLEMAN: Objection to  
7 form.

8 A. I don't think any of these  
9 would have discussed that matter.

10 Q. You list 348 publications on  
11 this list, correct?

12 MS. COLEMAN: Objection to  
13 form.

14 A. Let me just jump down to the  
15 bottom, make sure I tell you the right  
16 number. Yeah, the list has 348,  
17 correct.

18 Q. Were these published in  
19 scholarly journals?

20 MS. COLEMAN: Objection to  
21 form.

22 A. These are published on  
23 websites. Blogs, websites.

24 Q. My question was, were these  
25 published in scholarly journals?

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2 MS. COLEMAN: Same objection.

3 A. You mean an academic journal,  
4 something like that?

5 Q. Yes.

6 A. Research, no.

7 Q. You indicated these were  
8 things you posted on your company's  
9 website over the years, correct?

10 A. These have been posted on  
11 "Loyalty Truth," which was the blog  
12 that I had with Hanifin Loyalty, and on  
13 "The Wise Marketer." And I believe  
14 there are a couple that were published  
15 in Forbes.

16 Q. So just to be clear, they're  
17 not peer-reviewed scholarly articles  
18 concerning --

19 A. No, they're not.

20 Q. Turning to your CV, or I'll  
21 just say, turning to your report, which  
22 consists of some statements about your  
23 experience in the report itself, and  
24 then also a biography exhibit, does the  
25 report identify all matters, whether in

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2 Q. It's not your understanding,  
3 is it, that prescriptions are written  
4 to anonymous patients, is it?

5 A. No, that's not my  
6 understanding.

7 Q. In fact, it would be your  
8 understanding that prescriptions are  
9 written for specific patients, correct?

10 MS. COLEMAN: Objection to  
11 form, objection to scope.

12 A. Usually, I think always, you  
13 would think, they're written to an  
14 individual, to a name.

15 Q. And identifying the specific  
16 patient requires disclosure of certain  
17 personal information about that patient  
18 before the pharmacy dispenses the  
19 medication, correct?

20 MS. COLEMAN: Objection to  
21 form.

22 A. Can you ask me the question  
23 again, do you mind?

24 Q. Identifying the specific  
25 patient requires disclosure of certain



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2 personal information about that patient  
3 before the pharmacy dispenses the  
4 medication, correct?

5 MS. COLEMAN: Same objection,  
6 also an objection to scope.

7 A. It's really not -- I'm not an  
8 expert in that area. It wasn't really  
9 part of my opinion to look at that.

10 Q. But in your experience, is it  
11 correct that a patient prescription  
12 requires disclosure of certain personal  
13 information about that patient before  
14 the pharmacy dispenses the medication?

15 MS. COLEMAN: Objection to  
16 form.

17 A. In my experience as a  
18 consumer, in filling prescriptions  
19 myself, you're required to exchange  
20 some personal information.

21 Q. In other words, not only is a  
22 patient compelled by medical need to  
23 obtain a prescription, but they're  
24 required to give the pharmacy certain  
25 personal information as well, in order

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2 to obtain the medication, correct?

3 MS. COLEMAN: Objection to  
4 form, objection to scope.

5 A. Again, that's not part of my  
6 opinion. I can't really comment on  
7 that definitively.

8 Q. But in your own experience,  
9 not only is a patient compelled by  
10 medical need to obtain a prescription,  
11 but they are required to give the  
12 pharmacy certain personal information  
13 as well in order to obtain the  
14 medication, correct?

15 MS. COLEMAN: Objection to  
16 scope.

17 A. It's not part of my opinion  
18 to look at that.

19 Q. I didn't ask you that, I  
20 asked you in your experience.

21 A. You're asking me as a human  
22 being, as a consumer?

23 Q. Yes.

24 A. It's my experience that I  
25 have to give personal information to

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2 to obtain the medication, correct?

3 MS. COLEMAN: Objection to  
4 form, objection to scope.

5 A. Again, that's not part of my  
6 opinion. I can't really comment on  
7 that definitively.

8 Q. But in your own experience,  
9 not only is a patient compelled by  
10 medical need to obtain a prescription,  
11 but they are required to give the  
12 pharmacy certain personal information  
13 as well in order to obtain the  
14 medication, correct?

15 MS. COLEMAN: Objection to  
16 scope.

17 A. It's not part of my opinion  
18 to look at that.

19 Q. I didn't ask you that, I  
20 asked you in your experience.

21 A. You're asking me as a human  
22 being, as a consumer?

23 Q. Yes.

24 A. It's my experience that I  
25 have to give personal information to

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2 the pharmacist, or they have it on  
3 file, for me to fill a prescription.

4 Q. All right. So I'm going to  
5 try one more time so I have a real  
6 clean record.

7 In your personal experience,  
8 not only is a patient compelled by  
9 medical need to obtain a prescription,  
10 but they're required to give the  
11 pharmacy personal information as well,  
12 in order to obtain the medication,  
13 correct?

14 MS. COLEMAN: Objection to  
15 form.

16 A. Correct.

17 Q. It's your understanding that  
18 Walgreens generally makes the PSC offer  
19 or membership in the PSC program  
20 available to anyone filling  
21 prescriptions at Walgreens, right?

22 MS. COLEMAN: Objection to  
23 form.

24 A. It's my understanding that  
25 they make the offer to their entire

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2           customer base.

3           Q.       It's also correct that in  
4           joining the PSC, the customer receives  
5           a discounted cash price on their  
6           prescriptions immediately, correct?

7                   MS. COLEMAN:   Objection to  
8           form.

9           A.       I don't know that it's  
10          immediately, but they do receive a  
11          discounted price.   There's a different  
12          pricing schedule for prescription  
13          medications for PSC members.

14          Q.       So would it be accurate, in  
15          your opinion, to say that in joining  
16          the PSC, the customer receives a  
17          discounted cash price when filling  
18          their prescription immediately?

19                  MS. COLEMAN:   Objection to  
20          form.

21          A.       Yes, that's correct.

22          Q.       So in other words, in joining  
23          the PSC, the customer sees immediate  
24          savings off of the retail price of  
25          their prescription when filling the

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2       prescription, correct?

3                   MS. COLEMAN:   Objection to  
4       form.

5       A.       A PSC member receives --

6       Q.       I hate to interrupt.  It's a  
7       yes-or-no question.  If your counsel  
8       wants to ask questions --

9       A.       I don't know if I can answer  
10      that yes or no the way you're asking  
11      it.

12      Q.       Let me try it again.

13      A.       Okay.

14      Q.       Having joined the PSC, the  
15      customer sees immediate savings off of  
16      the retail price of their prescription  
17      when filling that prescription,  
18      correct?

19               MS. COLEMAN:   Objection to  
20      form.

21      A.       Yes.

22      Q.       Walgreens also guarantees  
23      that if the PSC member doesn't save at  
24      least the cost of their membership fee  
25      in one year, Walgreens will give them

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2 A. Correct. EBT card, there are  
3 a lot of forms of payment they could  
4 use.

5 Q. What is that, a debit card?

6 A. Electronic benefit card.

7 Q. That might be tied to an HSA  
8 plan or something like that?

9 A. Or unemployment benefits or  
10 something like that.

11 Q. So under the Fluticasone  
12 scenario in these Walgreens materials,  
13 an individual cash-paying patient comes  
14 to Walgreens with a prescription from  
15 their prescribing medical professional,  
16 or it's already been called in, and  
17 they have to decide whether to go  
18 out-of-pocket \$35, consisting of a \$20  
19 individual membership fee, plus \$15 for  
20 the tier 3 medication. Or pay \$42,  
21 correct?

22 A. You're talking about the  
23 Fluticasone nasal spray?

24 Q. That is what I'm talking  
25 about.

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2 A. So they would pay \$20 under  
3 tier 2, plus 15, that's 35.

4 Q. Oh, I'm sorry, I was reading  
5 the wrong one. You're right, \$35,  
6 you're right about that. Let me try  
7 that again, I might have been  
8 confusing. Fluticasone scenario, we're  
9 just talking about the Fluticasone,  
10 okay?

11 A. Okay.

12 Q. So an individual cash-paying  
13 patient comes to Walgreens with their  
14 prescription in hand, or it's already  
15 been called in, and they're deciding,  
16 they would be faced with a decision  
17 whether to go out-of-pocket \$35,  
18 consisting of the \$20 individual  
19 membership fee, plus \$15 for the  
20 Fluticasone, right, or pay \$42 cash,  
21 correct?

22 A. That appears to be correct.

23 Q. So that's an immediate  
24 savings of \$7 off the retail price if  
25 they join the PSC, correct?



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2 MS. COLEMAN: Objection to  
3 form.

4 A. They would have -- yeah, they  
5 would have a \$7, approximately, savings  
6 on this, filling this prescription for  
7 this drug.

8 Q. And the second -- I'm sorry?

9 A. For this drug.

10 Q. And on the second fill under  
11 this Fluticasone scenario, that patient  
12 would see savings of around \$27,  
13 correct?

14 A. I don't see that number.

15 Q. Because they don't pay the  
16 membership fee twice. They now are  
17 just paying \$15 as members of the plan,  
18 as opposed to \$42 retail price.

19 A. Hmm, okay.

20 Q. So let me ask the question  
21 again. The second fill under this  
22 scenario, the member would see savings  
23 of around \$27, right?

24 MS. COLEMAN: Objection to  
25 form.

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2 A. That appears to be right.

3 Q. And absent some change in  
4 price, either retail or PSC price,  
5 during the course of that year, every  
6 time that patient goes in to fill a  
7 prescription for Fluticasone nasal  
8 spray, they're going to save \$27 on  
9 that transaction versus the retail  
10 price, correct?

11 MS. COLEMAN: Objection to  
12 form.

13 A. That's my understanding from  
14 looking at this chart.

15 Q. Likewise, under the  
16 Lisinopril scenario in these Walgreens  
17 materials, an individual cash-paying  
18 patient comes into Walgreens with a  
19 prescription from a prescribing  
20 professional, or it's already been  
21 called in, and they decide whether to  
22 go out-of-pocket \$32, including the \$20  
23 membership fee, plus \$12 for the  
24 Lisinopril medication, or pay 47.99;  
25 isn't that right?

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2 MS. COLEMAN: Objection to  
3 form.

4 A. That's the way it appears,  
5 yes.

6 Q. That represents an immediate  
7 savings for that PSC member of about  
8 \$15.99 off the retail price, correct?

9 A. Let me just do that math  
10 here. 12 and 20, 20 member, 12 for the  
11 prescription, that's 32. So 47.99  
12 less, so you've got, yeah, about \$15  
13 savings, yes.

14 Q. And the second fill under  
15 this Lisinopril scenario would see  
16 savings of around 35.99, right?

17 MS. COLEMAN: Objection to  
18 form.

19 A. That's correct.

20 Q. That's just pretty basic  
21 addition and subtraction, right?

22 A. Yes.

23 Q. I think you said earlier that  
24 you're not a lawyer; is that correct?

25 A. That's correct.

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2 A. That's quite a list.

3 Q. We can do it one at a time.

4 A. That would be better, yeah.

5 Q. It's correct that Anne Taylor  
6 is not a pharmacy at which patients  
7 obtain prescribed, medically necessary  
8 medications, right?

9 A. That's correct.

10 Q. And it's correct that Banana  
11 Republic is not a pharmacy at which  
12 patients obtain prescribed, medically  
13 necessary medications, correct?

14 A. Correct.

15 Q. Are you familiar with the  
16 store Belk?

17 A. Store Belk's, the department  
18 store?

19 Q. Is that what it is, Belk's?

20 A. Yeah, I wasn't sure they were  
21 in business anymore, but yeah.

22 Q. If you'll turn to page 74,  
23 there's a footnote two at the bottom of  
24 that page. And it says Belk, do you  
25 see that, it refers to Belk as one of

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2 the reward programs that were reviewed  
3 in this article. Is that supposed to  
4 be Belk's?

5 A. I'm not sure of their brand  
6 styling, to be honest.

7 Q. It's what kind of store?

8 A. It's a department store.  
9 Similar to Dillard's. Something like  
10 that.

11 Q. So it's correct that Belk, or  
12 Belk's, is not a pharmacy at which  
13 patients obtain prescribed, medically  
14 necessary medications, right?

15 A. That's correct.

16 Q. And it's also correct that  
17 Famous Footwear is not a pharmacy at  
18 which patients obtain prescribed,  
19 medically necessary medications,  
20 correct?

21 A. Correct.

22 Q. And it's also correct that  
23 JCPenney is not a pharmacy at which  
24 patients obtain prescribed, medically  
25 necessary medications, correct?

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2 A. Pretty sure. I'll ask you,  
3 some of these have introduced  
4 pharmacies. I don't think JCPenney has  
5 ever done that.

6 Q. So the best of your  
7 knowledge, the answer to my question is  
8 yes, correct?

9 A. To the best of my knowledge,  
10 that answer is yes, unless they've  
11 changed their business model in some  
12 way.

13 Q. Is the same true of Macy's?

14 A. Yes.

15 Q. And is the same true of Nine  
16 West?

17 A. Yes, it is.

18 Q. And is it correct that  
19 Walgreens is a pharmacy at which  
20 patients obtain prescribed, medically  
21 necessary medications?

22 A. Yes.

23 Q. Likewise, American Express  
24 membership rewards program is not a  
25 pharmacy at which patients obtain

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2 prescribed, medically necessary  
3 medications, correct?

4 A. That's correct.

5 Q. CBS Sports Line Rewards Plus  
6 is not a pharmacy at which patients  
7 obtain prescribed, medically necessary  
8 medications either, is it?

9 A. That is correct.

10 Q. Is the same true of  
11 Blockbuster Rewards?

12 A. Blockbuster?

13 Q. When they existed.

14 A. Long since gone, but no, they  
15 were not a pharmacy.

16 Q. Is it correct that the  
17 Walgreens PSC is not a credit card  
18 frequency program in which consumers  
19 earn points for some amount of money  
20 spent with that card?

21 A. It's not a credit card  
22 program.

23 Q. So am I correct that the  
24 Walgreens PSC isn't a credit card  
25 frequency program in which a consumer

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Solutions. We are off the record  
at 1:27 p.m. Eastern Daylight time.  
Thank you, everybody.

REPORTER: Did you want  
roughs?

MS. COLEMAN: Yes, please.  
Regular time is fine for the final  
transcript.

MR. SHINGLER: Yes, please,  
thank you.

(Time noted: 1:27 p.m.)



CERTIFICATION

I, JEREMY RICHMAN, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of May, 2023.



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JEREMY RICHMAN